App. F. IX-4

Previous References

1939. (Legs.)

File No. 19-39

Serial Nos. 19-

Later References.

PRESERVED (15)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two only

Part B for March 1940.

SUBJECT.

The Foreigners Order 1939

No. P. 6485 of 29.3.40. I.G. of Police

Forwarding copy of Govt of India letter re: Foreigners
Act - 1932

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the
Government of His Highness the Maharaja of Mysore,
Bangalore.

TYPING SECTION
25 MAR. 1940
GEN. & REV. SECTT.

Dated Bangalore, the 20th March *1940.*

THE FOREIGNERS ORDER, 1939.

SIR,

I am directed to forward for information a copy of a letter from the Government of India, Home Department, to Provincial Governments No.21/3/40 Pol.(W), dated the 23rd February 1940, with enclosure.

I have the honour to be,
Sir,
Your most obedient servant,

SECRETARY TO THE RESIDENT.

Submitted for perusal. If approved a copy of the first & the letter will be sent to the D.G.P. for information and guidance and a copy of the Press note will be sent to the Publicity Office. Submitted with drafts.

21.3.40.

Done P6485 dt 29th March 1940 to the D.G.P. & Pub. Office

Publicity Office) for taking copy of Press note (Mag H)

Copy of Press Note taken and

The Chief Secretary to the Government of Madras
The Chief Secretary to the Government of Bombay
The Secretary to the Government of Bengal,
Home Department.
The Chief Secretary to the Government of the
United Provinces
The Chief Secretary to the Government of the Punjab
The Chief Secretary to the Government of Bihar
The Chief Secretary to the Government of the
Central Provinces & Berar
The Chief Secretary to the Government of Assam
The Chief Secretary to the Government of the North-West
Frontier Province
The Chief Secretary to the Government of Orissa
The Chief Secretary to the Government of Sind

The Chief Commissioner, Delhi
Coorg
Ajmer-Merwara
Panth-Piploda
Andaman & Nicobar Islands
Baluchistan

2. In the Home Department Secret Demi-Official letter No.21/66/39-Political, dated the 22nd August 1939, the Provincial Government were advised of the steps which, in opinion of the Government of India, it was desirable to take to prevent the departure to Afghanistan and other countries on the frontiers of India of subjects of States which at that time were regarded as potential enemies. To facilitate the operation of the instructions which the Provincial Government were then asked to issue, rule 15 of the Registration of Foreigners Rules was amended so as to require a foreigner to produce his certificate of registration before the Registration Officer of the district of his registered address when, in compliance with rule 11 of those rules, he was reporting his intention to depart from India. This amendment of the rules was intended to provide some cover for the impeding by executive action of the departure of nationals of countries with whom at that time it seemed possible that there might be war. On the issue of the Foreigners Ordinance, it was possible to legalise the actual prevention of departure, but it was not possible to provide for any overt discrimination against the nationals of any particular country. In the Home Department telegram No.1205 dated the 26th August, 1939, the Provincial Government were, therefore, asked to issue instructions in order to secure that paragraph 4(2) of the Foreigners Order should only be enforced against persons of potential enemy nationality suspected of an intention of departing to Afghanistan and

by a failure to prohibit departure in individual cases than by the grant of express permission whether verbal or in writing. Apart from the requirement in paragraph 3 of the Enemy Foreigners Order 1939, under which no male German subject may depart from British India without the permission in writing of the Central Government, there is now no general embargo or restriction upon the departure of foreigners of any nationality as a class, and the requirements of the situation would be met if information were available of the departure of certain suspects whose names are in the possession of the provincial Criminal Investigation Department, combined possibly with a refusal to allow particular individuals to depart. It will, generally, be for the Central Government to advise Provincial Governments of the names of individuals whose departure is to be prevented, but discretion will remain with the provincial authorities to hold up, pending a reference to the Central Government, any individual suspect whose departure is, in their opinion, undesirable.

4. In the circumstances, it has been decided to amend paragraph 4(2) of the Foreigners Order, 1939 to the effect that the civil authority at a port or other place from which any foreigner intends to depart from British India may prohibit the departure of the said foreigner pending the orders of the Central Government to whom a report of every such case will be made as soon as may be.

5. It is considered that this provision, in combination with the Registration of Foreigners Rules, will provide for sufficiently effective control over the departure of foreigners and at the same time obviate unnecessary formalities and inconvenience since:-

(1) in the event of war becoming likely with any other State instructions can be issued to impede the departure of all its nationals,

(2) in the unlikely event of there being a local objection to a foreigner's departure, the local

Registration Officer will, on receipt of the report o
under rule 15 of the Registration of Foreigners
be able to telegraph intimation to the Provinc
Criminal Investigation Department who can consult the
Intelligence Bureau or the Provincial Government,
meanwhile delaying if necessary, the grant of the
endorsement under rule 15,

in the absence of intimation to the contrary, the
civil authority at the port will be able to accept
the local endorsement made under rule 15 of the
Registration of Foreigners Rules on the certificate
of registration as evidence that there is no
objection to departure,

) if a foreigner who is liable to registration does not
produce his certificate of registration properly
endorsed under rule 15, he can justifiably be held up
pending enquiries, on the ground that he has not
complied with the rules, and

in the case of consular officers and others not liable
to registration, passenger lists will disclose the
fact of the intention to depart and if there is any
reason to hinder a particular individual the port
authority will, or should, be in possession of it
beforehand. In any case it is unlikely that any such
reason will be brought to light in the course of a
formal reference to the local Registration Officer.

order that foreigners and tourist agencies may b
requirements of the rules and order, a Press Note
copy is attached is being issued.

No.21/3/40-Political(W).

Copy forwarded to

External Affairs Department
Political Department
Finance Department
Defence Department
Defence Co-ordination Department
Legislative Department
Commerce Department
Labour Department
E.H. & Lands Department
Communications Department
Railway Department(Railway Board)
P.S.V.
General Staff Branch
Adjutant General's Branch
Director, Intelligence Bureau
G.G.(Public).

for information.

The Inspector General of Police

in Mysore, Bangalore.

Sir,

THE FOREIGNERS ORDER, 1939.

I am directed to forward herewith a copy of the Government of India letter No.21/3/40 Political (W) dated the 23rd February 1940 on the above subject, for information and guidance.

I have etc.,

25/3

For Secretary to Govt.
Law Dept.

The Secretary to the Government of His Highness the Maharaja of Mysore,
Law Department.

To

The Inspector General of Police in Mysore,

Bangalore.

Sir,

THE FOREIGNERS ORDER, 1939

I am directed to forward herewith, a copy of the Government of India letter No.21/3/40 Political (W) dated the 23rd February 1940 on the above subject, for information and guidance.

I have the honour to be,

Sir,

Your most obedient servant,

27/3

For Secretary to Government,
Law Department.

From

H.J. Frampton, Esquire, M.C., I.C.S.,
Deputy Secretary to the Government of India.

To ~~The Chief Secretary~~

Subject:- Foreigners Order, 1939.

I am directed to invite a reference to paragraph 4(2) of the Foreigners Order, 1939, under which no foreigner may depart from British India without the permission of the Civil authority for the port or other place of departure. It has been brought to the notice of the Government of India that the administration of this order is causing a certain amount of inconvenience not only to foreigners but also to the authorities. I am, therefore, to remind the Provincial Government of the circumstances which led to the issue of this order and to request that, if there be no objection, suitable instructions be issued to the Civil authorities in order to minimise inconvenience and difficulties pending the amendment of the order which for reason which follow, it has been decided should be made.

2. In the Home Department Secret Demi-Official Letter No. 21/66/39 Political, dated the 22nd August 1939, the Provincial Government were advised of the steps which, in the opinion of the Government of India, it was desirable to take to prevent the departure to Afghanistan and other countries on the frontiers of India of subjects of States which at that time were regarded as potential enemies. To facilitate the operation of the instructions which the Provincial

with rule 11 of those rules, he was reporting his intention to depart from India. This amendment of the rules was intended to provide some cover for the impending by execute action of the departure of nationals of countries with whom at that time it seemed possible that there might be war. On the issue of Foreighers Ordiance, it was possible to legalise the actual prevention of departure, but it was not possible to provide for any overt discrimination against the nationals of any particular country. In the Home Department Telegaram No. 1205 dated the 26th August 1939, the Provincial Government were, therefore, asked to issue instructions in order to secure that paragraph 4(2) of the Foreigners Order should only be enforced against persons of potential enemy nationality suspected of an intention of departing to Afghanistand and other countries on the frontiers of India, and in the Home Department Telegram No. 1276 dated the 31st August 1939, it was requested that restrictions on departure should be confined to German nationals as a class and to other individual suspects.

3. It will be observed that neither the wording of paragraph 4(2) of the Foreigners Order nor the advice on the manner of its enforcement which was communicated to Provincial Governments envisage the issue of a written permit. It was, in fact, intended that the Order should be enforeed rather by a failure to prohibit departure in indavidual cases than by the grant of express permission whether

with a refusal to allow particular individuals to depart. It will, generally, be for the Central Government to advise Provincial Governments of the names of individuals whose departure is to be prevented but discretion will remain with the provincial authorities to hold up, pending a reference to the Central Government, any individual suspect whose departure is in their opinion, undesirable

4. In the circumstances, it has been decided to amend paragraph 4(2) of the Foreignors Order, 1939 to the effect that the civil authority at a port or other place from which any foreigner intends to depart from British India may prohibit the departure of the said foreigner pending the orders of the Central Government to whom a report of every such case will be made as soon as may be.

5. It is considered that this provision, in combination with the Registration of Foreigners Rules, will provide for sufficiently effective control over the departure of foreigners and at the same time obviate unnecessary formalities and inconvenience since -

(5) in the course of a formal reference the local registration Officer

5. In order that foreigners and tourist agencies may be aware of the requirements of the rules and order, a Press Note of which a copy is attached is being issued.